

Assembly Bill No. 1403

CHAPTER 510

An act to amend Sections 7601, 7610, 7611, 7612, 7613, 7614, 7620, 7630, 7632, 7635, 7637, 7641, 7644, 7648.9, 7660, 7661, 7662, 7663, 7664, 7665, 7666, 7667, and 7669 of the Family Code, and to add Section 69617 to the Government Code, relating to family law.

[Approved by Governor October 3, 2013. Filed with
Secretary of State October 3, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1403, Committee on Judiciary. Family law.

(1) The Uniform Parentage Act defines the parent and child relationship as the legal relationship existing between a child and the child's parents, including the mother and child relationship and the father and child relationship, and governs proceedings to establish that relationship.

The bill would define "natural parent" as a nonadoptive parent, as specified, whether biologically related to the child or not. The bill would also make certain provisions gender neutral and refer instead to a "presumed parent" or "parent." The bill would make other conforming changes.

(2) Existing law specifies the number of judges of the superior court for each county, and allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional need in each county, as approved by the Judicial Council, and other specified criteria. Existing law provides for the conversion of 146 subordinate judicial officer positions in eligible superior courts upon the occurrence of specified conditions, including that the proposed action is ratified by the Legislature, except that no more than 16 positions may be converted to judgeships in any fiscal year. Notwithstanding this provision, up to 10 additional subordinate judicial officer positions may be converted to judgeships in any fiscal year, if the conversions will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer and the proposed action is ratified by the Legislature. Existing law ratifies the authority of the Judicial Council to convert 10 of those subordinate judicial officer positions to judgeships in the 2011–12 fiscal year.

This bill would ratify the authority of the Judicial Council to convert 10 subordinate judicial officer positions to judgeships in the 2013–14 fiscal year where the conversion will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer.

(3) This bill would incorporate additional changes in Sections 7601 and 7612 of the Family Code, proposed by SB 274, to be operative only if SB

274 and this bill are both chaptered and become effective January 1, 2014, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 7601 of the Family Code is amended to read:

7601. (a) “Natural parent” as used in this code means a nonadoptive parent established under this part, whether biologically related to the child or not.

(b) “Parent and child relationship” as used in this part means the legal relationship existing between a child and the child’s natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. The term includes the mother and child relationship and the father and child relationship.

SEC. 1.5. Section 7601 of the Family Code is amended to read:

7601. (a) “Natural parent” as used in this code means a nonadoptive parent established under this part, whether biologically related to the child or not.

(b) “Parent and child relationship” as used in this part means the legal relationship existing between a child and the child’s natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. The term includes the mother and child relationship and the father and child relationship.

(c) This part does not preclude a finding that a child has a parent and child relationship with more than two parents.

(d) For purposes of state law, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, benefits, responsibilities, obligations, and duties of parents, any reference to two parents shall be interpreted to apply to every parent of a child where that child has been found to have more than two parents under this part.

SEC. 2. Section 7610 of the Family Code is amended to read:

7610. The parent and child relationship may be established as follows:

(a) Between a child and the natural parent, it may be established by proof of having given birth to the child, or under this part.

(b) Between a child and an adoptive parent, it may be established by proof of adoption.

SEC. 3. Section 7611 of the Family Code is amended to read:

7611. A person is presumed to be the natural parent of a child if the person meets the conditions provided in Chapter 1 (commencing with Section 7540) or Chapter 3 (commencing with Section 7570) of Part 2 or in any of the following subdivisions:

(a) The presumed parent and the child’s natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration

of invalidity, or divorce, or after a judgment of separation is entered by a court.

(b) Before the child's birth, the presumed parent and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

(2) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(c) After the child's birth, the presumed parent and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) With his or her consent, the presumed parent is named as the child's parent on the child's birth certificate.

(2) The presumed parent is obligated to support the child under a written voluntary promise or by court order.

(d) The presumed parent receives the child into his or her home and openly holds out the child as his or her natural child.

(e) If the child was born and resides in a nation with which the United States engages in an Orderly Departure Program or successor program, he acknowledges that he is the child's father in a declaration under penalty of perjury, as specified in Section 2015.5 of the Code of Civil Procedure. This subdivision shall remain in effect only until January 1, 1997, and on that date shall become inoperative.

(f) The child is in utero after the death of the decedent and the conditions set forth in Section 249.5 of the Probate Code are satisfied.

SEC. 4. Section 7612 of the Family Code is amended to read:

7612. (a) Except as provided in Chapter 1 (commencing with Section 7540) and Chapter 3 (commencing with Section 7570) of Part 2 or in Section 20102, a presumption under Section 7611 is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence.

(b) If two or more presumptions arise under Section 7610 or 7611 that conflict with each other, or if a presumption under Section 7611 conflicts with a claim pursuant to Section 7610, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

(c) The presumption under Section 7611 is rebutted by a judgment establishing parentage of the child by another person.

(d) Within two years of the execution of a voluntary declaration of paternity, a person who is presumed to be a parent under Section 7611 may file a petition pursuant to Section 7630 to set aside a voluntary declaration of paternity. The court's ruling on the petition to set aside the voluntary declaration of paternity shall be made taking into account the validity of the voluntary declaration of paternity, and the best interests of the child

based upon the court's consideration of the factors set forth in subdivision (b) of Section 7575, as well as the best interests of the child based upon the nature, duration, and quality of the petitioning party's relationship with the child and the benefit or detriment to the child of continuing that relationship. In the event of any conflict between the presumption under Section 7611 and the voluntary declaration of paternity, the weightier considerations of policy and logic shall control.

(e) A voluntary declaration of paternity is invalid if, at the time the declaration was signed, any of the following conditions exist:

(1) The child already had a presumed parent under Section 7540.

(2) The child already had a presumed parent under subdivision (a), (b), or (c) of Section 7611.

(3) The man signing the declaration is a sperm donor, consistent with subdivision (b) of Section 7613.

SEC. 4.5. Section 7612 of the Family Code is amended to read:

7612. (a) Except as provided in Chapter 1 (commencing with Section 7540) and Chapter 3 (commencing with Section 7570) of Part 2 or in Section 20102, a presumption under Section 7611 is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence.

(b) If two or more presumptions arise under Section 7610 or 7611 that conflict with each other, or if a presumption under Section 7611 conflicts with a claim pursuant to Section 7610, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

(c) In an appropriate action, a court may find that more than two persons with a claim to parentage under this division are parents if the court finds that recognizing only two parents would be detrimental to the child. In determining detriment to the child, the court shall consider all relevant factors, including, but not limited to, the harm of removing the child from a stable placement with a parent who has fulfilled the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment to the child does not require a finding of unfitness of any of the parents or persons with a claim to parentage.

(d) Unless a court orders otherwise after making the determination specified in subdivision (c), a presumption under Section 7611 is rebutted by a judgment establishing parentage of the child by another person.

(e) Within two years of the execution of a voluntary declaration of paternity, a person who is presumed to be a parent under Section 7611 may file a petition pursuant to Section 7630 to set aside a voluntary declaration of paternity. The court's ruling on the petition to set aside the voluntary declaration of paternity shall be made taking into account the validity of the voluntary declaration of paternity, and the best interests of the child based upon the court's consideration of the factors set forth in subdivision (b) of Section 7575, as well as the best interests of the child based upon the nature, duration, and quality of the petitioning party's relationship with the child and the benefit or detriment to the child of continuing that relationship.

In the event of any conflict between the presumption under Section 7611 and the voluntary declaration of paternity, the weightier considerations of policy and logic shall control.

(f) A voluntary declaration of paternity is invalid if, at the time the declaration was signed, any of the following conditions exist:

- (1) The child already had a presumed parent under Section 7540.
- (2) The child already had a presumed parent under subdivision (a), (b), or (c) of Section 7611.
- (3) The man signing the declaration is a sperm donor, consistent with subdivision (b) of Section 7613.

SEC. 5. Section 7613 of the Family Code is amended to read:

7613. (a) If, under the supervision of a licensed physician and surgeon and with the consent of her spouse, a woman conceives through assisted reproduction with semen donated by a man not her husband, the spouse is treated in law as if he or she were the natural parent of a child thereby conceived. The spouse's consent shall be in writing and signed by both spouses. The physician and surgeon shall certify their signatures and the date of the assisted reproduction procedure, and retain the spouse's consent as part of the medical record, where it shall be kept confidential and in a sealed file. However, the physician and surgeon's failure to do so does not affect the parent and child relationship. All papers and records pertaining to the assisted reproduction procedure, whether part of the permanent record of a court or of a file held by the supervising physician and surgeon or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in assisted reproduction of a woman other than the donor's spouse is treated in law as if he were not the natural parent of a child thereby conceived, unless otherwise agreed to in a writing signed by the donor and the woman prior to the conception of the child.

SEC. 6. Section 7614 of the Family Code is amended to read:

7614. (a) A promise in writing to furnish support for a child, growing out of a presumed parent or alleged father and child relationship, does not require consideration and, subject to Section 7632, is enforceable according to its terms.

(b) In the best interest of the child or the other parent, the court may, and upon the promisor's request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

SEC. 7. Section 7620 of the Family Code is amended to read:

7620. (a) A person who has sexual intercourse or causes conception with the intent to become a legal parent by assisted reproduction in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this part with respect to a child who may have been conceived by that act of intercourse or assisted reproduction.

(b) An action under this part shall be brought in one of the following:

- (1) The county in which the child resides or is found.

(2) If the child is the subject of a pending or proposed adoption, any county in which a licensed California adoption agency to which the child has been relinquished or is proposed to be relinquished maintains an office.

(3) If the child is the subject of a pending or proposed adoption, the county in which an office of the department or a public adoption agency investigating the petition is located.

(4) If the parent is deceased, the county in which proceedings for probate of the estate of the parent of the child have been or could be commenced.

SEC. 8. Section 7630 of the Family Code is amended to read:

7630. (a) A child, the child's natural parent, a person presumed to be the child's parent under subdivision (a), (b), or (c) of Section 7611, an adoption agency to whom the child has been relinquished, or a prospective adoptive parent of the child may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the parent and child relationship presumed under subdivision (a), (b), or (c) of Section 7611.

(2) For the purpose of declaring the nonexistence of the parent and child relationship presumed under subdivision (a), (b), or (c) of Section 7611 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, parentage of the child by another person may be determined in the same action, if that person has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the parent and child relationship presumed under subdivision (d) or (f) of Section 7611.

(c) Except as to cases coming within Chapter 1 (commencing with Section 7540) of Part 2, an action to determine the existence of the parent and child relationship may be brought by the child or personal representative of the child, the Department of Child Support Services, the parent or the personal representative or a parent of that parent if that parent has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) (1) If a proceeding has been filed under Chapter 2 (commencing with Section 7820) of Part 4, an action under subdivision (a) or (b) shall be consolidated with that proceeding. The parental rights of the presumed parent shall be determined as set forth in Sections 7820 to 7829, inclusive.

(2) If a proceeding pursuant to Section 7662 has been filed under Chapter 5 (commencing with Section 7660), an action under subdivision (c) shall be consolidated with that proceeding. The parental rights of the alleged natural father shall be determined as set forth in Section 7664.

(3) The consolidated action under paragraph (1) or (2) shall be heard in the court in which the proceeding under Section 7662 or Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless the court finds, by clear and convincing evidence, that transferring the action to the other court poses a substantial hardship to the petitioner. Mere inconvenience does not constitute a sufficient basis for a finding of substantial hardship.

If the court determines there is a substantial hardship, the consolidated action shall be heard in the court in which the parentage action is filed.

(e) (1) If any prospective adoptive parent who has physical custody of the child, or any licensed California adoption agency that has legal custody of the child, has not been joined as a party to an action to determine the existence of a parent and child relationship under subdivision (a), (b), or (c), or an action for custody by the alleged natural father, the court shall join the prospective adoptive parent or licensed California adoption agency as a party upon application or on its own motion, without the necessity of a motion for joinder. A joined party shall not be required to pay a fee in connection with this action.

(2) If a person brings an action to determine parentage and custody of a child who he or she has reason to believe is in the physical or legal custody of an adoption agency, or of one or more persons other than the child's parent who are prospective adoptive parents, he or she shall serve his or her entire pleading on, and give notice of all proceedings to, the adoption agency or the prospective adoptive parents, or both.

(f) A party to an assisted reproduction agreement may bring an action at any time to establish a parent and child relationship consistent with the intent expressed in that assisted reproduction agreement.

(g) (1) In an action to determine the existence of the parent and child relationship brought pursuant to subdivision (b), if the child's other parent has died and there are no existing court orders or pending court actions involving custody or guardianship of the child, then the persons having physical custody of the child shall be served with notice of the proceeding at least 15 days prior to the hearing, either by mail or in any manner authorized by the court. If any person identified as having physical custody of the child cannot be located, the court shall prescribe the manner of giving notice.

(2) If known to the person bringing the parentage action, relatives within the second degree of the child shall be given notice of the proceeding at least 15 days prior to the hearing, either by mail or in any manner authorized by the court. If a person identified as a relative of the second degree of the child cannot be located, or his or her whereabouts are unknown or cannot be ascertained, the court shall prescribe the manner of giving notice, or shall dispense with giving notice to that person.

(3) Proof of notice pursuant to this subdivision shall be filed with the court before the proceeding to determine the existence of the parent and child relationship is heard.

SEC. 9. Section 7632 of the Family Code is amended to read:

7632. Regardless of its terms, an agreement between an alleged father or a presumed parent and the other parent or child does not bar an action under this chapter.

SEC. 10. Section 7635 of the Family Code is amended to read:

7635. (a) The child may, if under the age of 12 years, and shall, if 12 years of age or older, be made a party to the action. If the child is a minor and a party to the action, the child shall be represented by a guardian ad

litem appointed by the court. The guardian ad litem need not be represented by counsel if the guardian ad litem is a relative of the child.

(b) The natural parent, each person presumed to be a parent under Section 7611, and each man alleged to be the natural father, may be made parties and shall be given notice of the action in the manner prescribed in Section 7666 and an opportunity to be heard. Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the petition to establish parental relationship, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

(c) The court may align the parties.

(d) In any initial or subsequent proceeding under this chapter where custody of, or visitation with, a minor child is in issue, the court may, if it determines it would be in the best interest of the minor child, appoint private counsel to represent the interests of the minor child pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8.

SEC. 11. Section 7637 of the Family Code is amended to read:

7637. The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order may direct the parent to pay the reasonable expenses of the mother's pregnancy and confinement.

SEC. 12. Section 7641 of the Family Code is amended to read:

7641. (a) If there is a voluntary declaration of paternity in place, or parentage or a duty of support has been acknowledged or adjudicated under this part or under prior law, the obligation of the parent may be enforced in the same or other proceedings by any of the following:

- (1) The other parent.
- (2) The child.
- (3) The public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral.
- (4) Any other person, including a private agency, to the extent the person has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to any of the following:

- (1) The other parent.
- (2) The clerk of the court.
- (3) A person, corporation, or agency designated to administer the payments for the benefit of the child under the supervision of the court.

(c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments, including imprisonment for contempt, apply.

SEC. 13. Section 7644 of the Family Code is amended to read:

7644. (a) Notwithstanding any other law, an action for child custody and support and for other relief as provided in Section 7637 may be filed

based upon a voluntary declaration of paternity as provided in Chapter 3 (commencing with Section 7570) of Part 2.

(b) Except as provided in Section 7576, the voluntary declaration of paternity shall be given the same force and effect as a judgment of parentage entered by a court of competent jurisdiction. The court shall make appropriate orders as specified in Section 7637 based upon the voluntary declaration of paternity unless evidence is presented that the voluntary declaration of paternity has been rescinded by the parties or set aside as provided in Section 7575 of the Family Code.

(c) The Judicial Council shall develop the forms and procedures necessary to implement this section.

SEC. 14. Section 7648.9 of the Family Code is amended to read:

7648.9. This article does not establish a basis for setting aside or vacating a judgment establishing paternity with regard to a child conceived by assisted reproduction pursuant to Section 7613 or a child conceived pursuant to a surrogacy agreement.

SEC. 15. Section 7660 of the Family Code is amended to read:

7660. If a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child who has a presumed parent under Section 7611, the presumed parent shall be given notice of the adoption proceeding and have the rights provided under Part 2 (commencing with Section 8600) of Division 13, unless that parent's relationship to the child has been previously terminated or determined by a court not to exist or the presumed parent has voluntarily relinquished for or consented to the adoption of the child.

SEC. 16. Section 7661 of the Family Code is amended to read:

7661. If the other parent relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child, the mother shall be given notice of the adoption proceeding and have the rights provided under Part 2 (commencing with Section 8600) of Division 13, unless the mother's relationship to the child has been previously terminated by a court or the mother has voluntarily relinquished for or consented to the adoption of the child.

SEC. 17. Section 7662 of the Family Code is amended to read:

7662. (a) If a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child, or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having physical or legal custody of the child, or the prospective adoptive parent, shall file a petition to terminate the parental rights of the alleged father, unless one of the following occurs:

(1) The alleged father's relationship to the child has been previously terminated or determined not to exist by a court.

(2) The alleged father has been served as prescribed in Section 7666 with a written notice alleging that he is or could be the biological father of the child to be adopted or placed for adoption and has failed to bring an action for the purpose of declaring the existence of the father and child relationship

pursuant to subdivision (c) of Section 7630 within 30 days of service of the notice or the birth of the child, whichever is later.

(3) The alleged father has executed a written form developed by the department to waive notice, to deny his paternity, relinquish the child for adoption, or consent to the adoption of the child.

(b) The alleged father may validly execute a waiver or denial of paternity before or after the birth of the child, and once signed, no notice of, relinquishment for, or consent to adoption of the child shall be required from the alleged father for the adoption to proceed.

(c) All proceedings affecting a child under Divisions 8 (commencing with Section 3000) to 11 (commencing with Section 6500), inclusive, and Parts 1 (commencing with Section 7500) to 3 (commencing with Section 7600), inclusive, of this division, other than an action brought pursuant to this section, shall be stayed pending final determination of proceedings to terminate the parental rights of the alleged father pursuant to this section.

(d) Nothing in this section may limit the jurisdiction of the court pursuant to Part 3 (commencing with Section 6240) and Part 4 (commencing with Section 6300) of Division 10 with respect to domestic violence orders.

SEC. 18. Section 7663 of the Family Code is amended to read:

7663. (a) In an effort to identify all alleged fathers and presumed parents, the court shall cause inquiry to be made of the mother and any other appropriate person by one of the following:

(1) The State Department of Social Services.

(2) A licensed county adoption agency.

(3) The licensed adoption agency to which the child is to be relinquished.

(4) In the case of a stepparent adoption, the licensed clinical social worker or licensed marriage and family therapist who is performing the investigation pursuant to Section 9001, if applicable. In the case of a stepparent adoption in which no licensed clinical social worker or licensed marriage and family therapist is performing the investigation pursuant to Section 9001, the board of supervisors may assign those inquiries to a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department.

(b) The inquiry shall include all of the following:

(1) Whether the mother was married at the time of conception of the child or at any time thereafter.

(2) Whether the mother was cohabiting with a man at the time of conception or birth of the child.

(3) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.

(4) Whether any person has formally or informally acknowledged or declared his or her possible parentage of the child.

(5) The names and whereabouts, if known, of every person presumed or man alleged to be the parent of the child, and the efforts made to give notice of the proposed adoption to each person identified.

(c) The agency that completes the inquiry shall file a written report of the findings with the court.

SEC. 19. Section 7664 of the Family Code is amended to read:

7664. (a) If, after the inquiry, the biological father is identified to the satisfaction of the court, or if more than one man is identified as a possible biological father, notice of the proceeding shall be given in accordance with Section 7666. If any alleged biological father fails to appear or, if appearing, fails to claim parental rights, his parental rights with reference to the child shall be terminated.

(b) If the biological father or a man representing himself to be the biological father claims parental rights, the court shall determine if he is the biological father. The court shall then determine if it is in the best interest of the child that the biological father retain his parental rights, or that an adoption of the child be allowed to proceed. The court, in making that determination, may consider all relevant evidence, including the efforts made by the biological father to obtain custody, the age and prior placement of the child, and the effects of a change of placement on the child.

(c) If the court finds that it is in the best interest of the child that the biological father should be allowed to retain his parental rights, the court shall order that his consent is necessary for an adoption. If the court finds that the man claiming parental rights is not the biological father, or that if he is the biological father it is in the child's best interest that an adoption be allowed to proceed, the court shall order that the consent of that man is not required for an adoption. This finding terminates all parental rights and responsibilities with respect to the child.

SEC. 20. Section 7665 of the Family Code is amended to read:

7665. If, after the inquiry, the court is unable to identify the biological father or any possible biological father and no person has appeared claiming to be the biological father and claiming custodial rights, the court shall enter an order terminating the unknown biological father's parental rights with reference to the child.

SEC. 21. Section 7666 of the Family Code is amended to read:

7666. (a) Except as provided in subdivision (b), notice of the proceeding shall be given to every person identified as the biological father or a possible biological father in accordance with the Code of Civil Procedure for the service of process in a civil action in this state at least 10 days before the date of the proceeding, except that publication or posting of the notice of the proceeding is not required. Proof of giving the notice shall be filed with the court before the petition is heard.

(b) Notice to a man identified as or alleged to be the biological father shall not be required, and the court shall issue an order dispensing with notice to him, under any of the following circumstances:

(1) The relationship to the child has been previously terminated or determined not to exist by a court.

(2) The alleged father has executed a written form to waive notice, deny his paternity, relinquish the child for adoption, or consent to the adoption of the child.

(3) The whereabouts or identity of the alleged father are unknown or cannot be ascertained.

(4) The alleged father has been served with written notice of his alleged paternity and the proposed adoption, and he has failed to bring an action pursuant to subdivision (c) of Section 7630 within 30 days of service of the notice or the birth of the child, whichever is later.

SEC. 22. Section 7667 of the Family Code is amended to read:

7667. (a) Notwithstanding any other provision of law, an action to terminate the parental rights of an alleged father of a child as specified in this part shall be set for hearing not more than 45 days after filing of the petition, except as provided in subdivision (c).

(b) The matter so set shall have precedence over all other civil matters on the date set for trial, except an action to terminate parental rights pursuant to Part 4 (commencing with Section 7800).

(c) The court may dispense with a hearing and issue an ex parte order terminating parental rights if any of the following applies:

(1) The identity or whereabouts of the alleged father are unknown.

(2) The alleged father has validly executed a waiver of the right to notice or a denial of paternity.

(3) The alleged father has been served with written notice of his alleged paternity and the proposed adoption, and he has failed to bring an action pursuant to subdivision (c) of Section 7630 within 30 days of service of the notice or the birth of the child, whichever is later.

SEC. 23. Section 7669 of the Family Code is amended to read:

7669. (a) An order requiring or dispensing with an alleged father's consent for the adoption of a child may be appealed from in the same manner as an order of the juvenile court declaring a person to be a ward of the juvenile court and is conclusive and binding upon the alleged father.

(b) After making the order, the court has no power to set aside, change, or modify that order.

(c) Nothing in this section limits the right to appeal from the order and judgment.

SEC. 24. Section 69617 is added to the Government Code, to read:

69617. (a) The Legislature hereby ratifies the authority of the Judicial Council to convert 10 subordinate judicial officer positions to judgeships in the 2013–14 fiscal year where the conversion will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer, pursuant to subparagraph (C) of paragraph (1) of subdivision (c) of Section 69615.

(b) The action described in subdivision (a) shall be in addition to any action that may be taken pursuant to the authority described in subparagraph (B) of paragraph (1) of subdivision (c) of Section 69615 to convert up to 16 subordinate judicial officer positions to judgeships.

SEC. 25. (a) Section 1.5 of this bill incorporates amendments to Section 7601 of the Family Code proposed by both this bill and Senate Bill 274. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 7601 of the

Family Code, and (3) this bill is enacted after Senate Bill 274, in which case Section 1 of this bill shall not become operative.

(b) Section 4.5 of this bill incorporates amendments to Section 7612 of the Family Code proposed by both this bill and Senate Bill 274. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 7612 of the Family Code, and (3) this bill is enacted after Senate Bill 274, in which case Section 4 of this bill shall not become operative.

O